

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 36084 & 36088

STATE OF IDAHO,)	2009 Unpublished Opinion No. 650
)	
Plaintiff-Respondent,)	Filed: October 23, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
MARVIN DALE OTT,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Judgments of conviction and concurrent unified sentences of ten years, with a minimum period of confinement of two years, for burglary; ten years, with a minimum period of confinement of three years, for burglary; and fourteen years, with a minimum period of confinement of four years, for grand theft, affirmed; orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

In Docket No. 36084, Marvin Dale Ott pled guilty to burglary. I.C. § 18-1401. In docket No. 36088, Ott pled guilty to burglary and grand theft. I.C. §§ 18-2403(1), 18-2407(1)(b). In exchange for his guilty pleas in both cases, additional charges were dismissed as well as an allegation that Ott was a persistent violator. The district court imposed concurrent unified sentences of ten years, with a minimum period of confinement of two years, for burglary; ten years, with a minimum period of confinement of three years, for burglary; and fourteen years,

with a minimum period of confinement of four years, for grand theft. Ott filed an I.C.R. 35 motion, which the district court denied. Ott appeals.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Next, we review whether the district court erred in denying Ott's Rule 35 motion. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73. Upon review of the record, we conclude no abuse of discretion has been shown.

Therefore, Ott's judgments of conviction and sentences, and the district court's orders denying Ott's Rule 35 motions, are affirmed.